

Dennis S. Waks, Bar #142581
Acting Federal Defender
801 I Street, 3rd Floor
Sacramento, California 95814
Telephone (916) 498-5700

Attorney for Defendant
MARCOS LESMON BENAVIDEZ

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	Case No. CR. S-04-315-WBS
)	
Plaintiff,	)	STIPULATION AND REQUEST FOR
	)	CONTINUANCE AND FINDING OF
v.	)	EXCLUDABLE TIME UNDER THE
	)	SPEEDY TRIAL ACT AND LOCAL
MARCOS LESMON BENAVIDEZ,	)	CODES T4 and T2; ORDER
	)	EXCLUDING TIME
Defendant.)	
	)	Date: January 25 2006
	)	Time: 9:00 a.m.
	)	Judge: Hon. William B. Shubb

It is hereby stipulated and agreed to between the United States of America through DANIEL LINHARDT, Supervising Assistant U.S. Attorney, and defendant, MARCOS LESMON BENAVIDEZ, by and through his counsel, DENNIS S. WAKS, Acting Federal Defender, that the change of plea hearing set for January 18, 2006 be vacated and that a change of plea hearing be set for January 25, 2006 at 9:00 a.m.

This continuance is requested because counsel needs time to review and analyze discovery received from the government, and to discuss it with Mr. Benavidez. Defense counsel has received over 3000 pages of claim documents from the government, which need to be discussed with Mr. Benavidez. Defense counsel has also received four audiotapes in Spanish.

Both parties believe that based on the documents produced to date, and the outstanding documents sought by the defense, this case is complex under the standard set forth in Local Code T2 and Title 18 U.S.C. § 3161(h)(8)(B)(ii). The Court has previously found that it is complex. The parties ask that time be excluded on that basis and for preparation of new defense counsel (Local Code T4).

All parties desire that a change of plea hearing be set on January 25, 2006. The parties further stipulate and agree that time from the date of the order below until January 25, 2006, be excluded under the Speedy Trial Act pursuant to Local Codes T2 and T4, Title 18, U.S.C. §§ 3161(h)(8)(B)(ii) and (iv), because the case is complex and to give defense counsel reasonable time to prepare, conduct investigation, and discuss the case with Mr. Benavidez and the government.

Dated: January 11, 2006

Respectfully submitted,

DENNIS S. WAKS
Acting Federal Defender

By /s/ Dennis S. Waks
Attorney for Defendant
MARCOS LESMON BENAVIDEZ

Dated: January 11, 2006

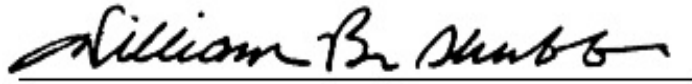
MCGREGOR SCOTT
United States Attorney

/s/ Dennis S. Waks for
DANIEL LINHARDT
Sup. Assistant U.S. Attorney
Attorney for Plaintiff

ORDER

IT IS SO ORDERED. The Court makes a finding of excludable time as set forth in the attached stipulation. The time between the date of this order through January 25, 2006, will be excluded under the Speedy Trial Act pursuant to Local Codes T2 and T4, Title 18, U.S.C. §§ 3161(h)(8)(B)(ii) and (iv). The Court specifically finds that the case is complex as provided in 18 U.S.C. § 3161(h)(8)(B)(ii). The court also specifically finds that a continuance is necessary to give counsel for the defendant reasonable time to prepare in this matter. The court finds that the ends of justice served by granting a continuance outweigh the interests of the public and the defendant in a speedy trial.

DATED: January 18, 2006


WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE